

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHARLES TALBERT, Plaintiff, v. Defendants.))))))	C.A. No. 24-122 Erie District Judge Susan Paradise Baxter Chief Magistrate Judge Richard Lanzillo
RANDY IRWIN, et al., Defendants.)	

MEMORANDUM ORDER

Plaintiff Charles Talbert, an inmate formerly incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”),¹ commenced this action in the Forest County Court of Common Pleas, against, *inter alia*, the Pennsylvania Department of Corrections (“DOC”) and multiple DOC employees, most of whom are staffed at SCI-Forest. The action was removed to this Court by notice of removal filed on May 6, 2024 [ECF No. 1], and the case was referred to Chief United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff subsequently filed an amended complaint on June 14, 2024, which is the operative pleading in this case. [ECF No. 16]. In his amended complaint, Plaintiff names as Defendants no less than fifty-one (51) individuals and entities, consisting of seven governmental agencies, six state officials, three state police officers, ten DOC supervisors or administrators, fourteen corrections officers, eight DOC medical providers, two non-DOC medical providers, and Aramark, a private corporation under contract with the Commonwealth of Pennsylvania to

¹

Plaintiff is currently incarcerated at the State Correctional Institution at Fayette in LaBelle, Pennsylvania.

provide medical services to DOC inmates.

On December 12, 2024, multiple Commonwealth of Pennsylvania Defendants filed a motion to dismiss [ECF No. 76]. Plaintiff filed a brief in opposition to the Commonwealth Defendants' motion on January 2, 2025. [ECF No. 82].

On February 6, 2025, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that the Commonwealth's motion to dismiss be denied, without prejudice, as moot, and that all allegations of Plaintiff's amended complaint be dismissed, without prejudice, pursuant to 28 U.S.C. § 1915A and Rules 8 and 20 of the Federal Rules of Civil Procedure, except for the following: Plaintiff's claim against Defendants Casey, Beesley, Parcell, and Shurock for the alleged use of excessive force on March 31, April 1, and June 28, 2023, as described in paragraphs 99-102; and Plaintiff's deliberate indifference and conditions of confinement claims against Defendants Parcell, Shurock, Arias, Gibson, and McGinley for denying him medical treatment and placing him in a restraint belt for 24 hours following the OC spray incident on June 28, 2023, as described in paragraphs 103-105. [ECF No. 86].

Objections to the R&R were due to be filed by February 24, 2025; however, no timely objections have been received by the Court.

Thus, after *de novo* review of the motion and relevant documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 18th day of March, 2025;

IT IS HEREBY ORDERED that the Commonwealth Defendants' motion to dismiss [ECF No. 76] is DENIED, without prejudice, as moot.

IT IS FURTHER ORDERED that all allegations and claims of the amended complaint,

other than those specified in paragraphs 99-102 against Defendants Casey, Beesley, Parcell, and Shurock, and paragraphs 103-105 against Defendants Parcell, Shurock, Arias, Gibson, and McGinley, are hereby DISMISSED, without prejudice, pursuant to 28 U.S.C. § 1915A and Rules 8 and 20 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that all Defendants, other than Defendants Casey, Beesley, Parcell, Shurock, Arias, Gibson, and McGinley are hereby DISMISSED, and the Clerk is directed to terminate all of said Defendants from this case.

IT IS FURTHER ORDERED that Defendants Beesley, Parcell, Shurock, Arias, Gibson, and McGinley shall file an answer or other responsive pleading to the remaining claims and allegations set forth in paragraphs 99-105 of the amended complaint within twenty-one (21) days of the date of this Order.

The report and recommendation of Chief Magistrate Judge Lanzillo, issued February 6, 2025 [ECF No. 86], is adopted as the opinion of the court.



SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
Chief U.S. Magistrate Judge